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1 financing all or a portion of the costs of acquiring, constructing and installing the Property to be Financed
2 and paying expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest
3 on the outstanding principal amount at a fixed rate not to exceed 5% per annum. The Note shall be repaid
4 in five substantially equal annual amortized installments of principal and interest, commencing one (1)-
5 year from the date of the Note and on the same day of each year thereafter, with the final installment due
6 five (5) years from the date of the Note. The Note shall be issued in fully registered form. The Note shall
7 be executed by the Mayor and the City Clerk and the seal of the City shall be affixed to the Note.

8 **Section 3:** The note shall be issued to the Lender in consideration for the Loan. The Lender shall be
9 selected by the City Manager based upon the commitment or proposal for the Loan that the City Manager
10 determines to have the lowest cost to the City. The City Treasurer is hereby authorized and directed to
11 solicit proposals or commitments for the Loan from at least three (3) banking institutions having offices in
12 the City, in such manner as shall be approved by the City Manager. The City Manager shall have the right
13 to reject any and all proposals and commitments.

14 **Section 4:** As provided in Amendment No. 78, the annual debt service payments on the Note in each
15 fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For
16 the purpose of making the annual debt service payments, there is hereby, and shall be, appropriated to pay
17 the Note, an amount of general revenues of the City sufficient for such purposes. The City Treasurer is
18 hereby authorized and directed to withdraw from the General Fund of the City the amounts and at the times
19 necessary to make the annual debt service payments on the Note.

20 **Section 5:** The Board of Directors hereby finds that the Property to be Financed is a part of the property
21 that the Board of Directors anticipated would be paid for with the proceeds of a 3/8-Cent Sales and
22 Compensating Use Tax for capital projects approved by the voters at an election held on September 13,
23 2011 (the "Tax Proceeds"). The Board of Directors further finds that the use of Tax Proceeds to reimburse
24 the general fund for general revenues used to retire the principal installments of the Note is appropriate as
25 an expenditure of the Tax Proceeds for capital improvements. This shall not be construed as a pledged of
26 the Tax Proceeds to the payment of the Note. The Tax Proceeds are not pledged to the retirement of the
27 Note.

28 **Section 6:** (a) The City covenants with the owner of the Note (the "Owner") from time to time that it
29 shall not take any action or suffer or permit any action to be taken or condition to exist which causes or
30 may cause the interest payable on the Note to be included in gross income for federal income tax purposes.
31 Without limiting the generality of the foregoing, the City covenants with the Owner that the proceeds of
32 the sale of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated
33 as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended
34 (the "Code").

1 (b) The City covenants with the Owner that it will not use or permit the use of the Property
2 to be Financed or the proceeds of the Note, in such manner as to cause the Note to be a “private activity
3 bond” within the meaning of Section 141 of the Code.

4 (c) The City covenants with the owner that it will not reimburse itself from Note proceeds
5 for any costs paid prior to the date the Note is issued except in compliance with United States Treasury
6 Regulation No. 1.150-2. This ordinance shall constitute an “official intent” for purposes of the Regulation.

7 (d) The City covenants with the Owner that it will submit to the Secretary of the Treasury
8 of the United States, not later than the 15th day of the second calendar month after the close of the calendar
9 quarter in which the Note is issued, a statement concerning the Note which contains the information
10 required by Section 149€ of the Code.

11 **Section 7:** The City shall provide such financial information to the Lender as the Lender may
12 reasonably request.

13 **Section 8:** The Mayor, City Manager, City Treasurer, City Attorney and City Clerk are hereby
14 authorized and directed, for an on behalf of the City, to perform all acts of whatever nature necessary to
15 effect and carry out the authority conferred by this ordinance and to execute all papers, documents,
16 certificates and other instruments that may be required for the carrying out of such authority or to evidence
17 the exercise thereof.

18 **Section 9: Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or
19 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
20 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and
21 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
22 ordinance.

23 **Section 10: Repealer.** All laws, ordinances, resolutions, or parts of the same, which are inconsistent
24 with the provisions of this resolution are hereby repealed to the extent of such inconsistency.

25 **Section 11: Emergency Clause.** *The Board of Directors hereby determines that the instigation and*
26 *completion of the projects hereinabove set forth are essential to the public health, safety and welfare of the*
27 *citizens of the City, and must be financed as quickly as possible; an emergency is, therefore, declared to*
28 *exist and this ordinance shall be in full force and effect from and after the date of its execution.*

29 **PASSED: May 20, 2014**

30 **ATTEST:**

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Susan Langley, City Clerk

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Mark Stodola, Mayor

APPROVED AS TO LEGAL FORM:

Thomas M. Carpenter, City Attorney

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